**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**Civil Writ Petition No.13766 of 2003**
Date of decision:27.09.2007

**Chaman Lal Sharma** **.....Petitioner**

**Versus**

**State of Punjab** **....Respondent**

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL**

**Present:** **Mr. Gaurav Chopra, Advocate,**
**for the petitioner.**
**Mr. Arvind Mittal,Addl. A.G.,Punjab.**

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**RAJESH BINDAL,J.**

The prayer made in the writ petition is for quashing of the order dated 21.02.2003, whereby the petitioner, in terms of the directions passed by this Court in C.W.P.No.4856 of 1999, filed by the petitioner earlier, has been granted the following benefits:-

> "*And, therefore, in view of the position explained in the foregoing paras Shri C.L.Sharma is granted the deemed date of appointment as Excise and Taxation Officer w.e.f. 11.4.1970 and grant him the deemed dates of notional promotions as Assistant Excise and Taxation Commissioner, Deputy Excise and Taxation Commissioner, Joint Excise and Taxation Commissioner and Additional Excise and Taxation Commissioner as under:-*
>
> *i) Assistant Excise and Taxation Commissioner 1.1.1978*
> *ii) Deputy Excise & Taxation Commissioner 22.4.1983*
> *iii)Joint Excise & Taxation Commissioner 28.8.1991*
> *iv)Additional Excise & Taxation Commissioner 04.06.1993*
>
> *Further Shri C.L.Sharma is retired as Additional Excise & Taxation Commissioner w.e.f. 31.12.1998.*

However, still without the petitioner having refused to work on the higher post, the following observation was made:-

> *It is made clear that no arrears of pay etc. shall be paid to Shri C.L.Sharma as has already been decided in Kaleka's case by the Hon'ble Court."*

In the present petition, the petitioner is aggrieved against the above observation only.

To substantiate his plea, he has referred to earlier order passed in C.W.P.No.12382 of 2003 (**Ex. Capt. Darshan Lal Khanna v. State of Punjab)** where under identical circumstances, this Court had directed the respondents for payment of arrears.

On the other hand, learned counsel for the respondent, disputing the claim made by the petitioner, submitted that the principles of 'No Work No Pay' should be applied, as the petitioner had not worked on the higher post, he could not be paid salary and emoluments for the post. However, when confronted with the earlier judgment of this Court in **Ex.Capt. Darshan Lal Khanna's case** (supra), he could not dispute that the facts under consideration in that case were identical to the facts in the present case.

Having heard learned counsel for the parties and perusing the judgment of this Court in **Ex. Capt. Darshan Lal Khanna's case** (supra), I find identical issue, as is sought to be raised, had been decided by this Court in favour of the petitioner therein.

Accordingly, for the reasons stated in Ex. Capt. Darshan Lal Khanna's Case (supra), the prayer made in the present petition is allowed. The conditions put in the order regarding non-payment of arrears is held to be illegal and it is directed that the respondents shall grant arrears of pay to be petitioner for the various posts on which he has been granted deemed dateof promotion till his superannuation and thereafter his retiral benefits

shall also be fixed accordingly. The arrears shall be paid within a period of six months from today without any interest. However, in case of failure, the petitioner shall also be entitled to interest @ 9% per annum.

The writ petition is disposed of in the manner indicated above with no order as to cost.

**September 27 , 2007** **(RAJESH BINDAL)**
**nt** **JUDGE**